

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

PITTSBURG SNF LLC, ET AL.,

vs.

PHARMERICA EAST, INC.
as successor in interest to
PHARMASTER, L.P.

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CASE NO. 2:10-CV-363-TJW-CE

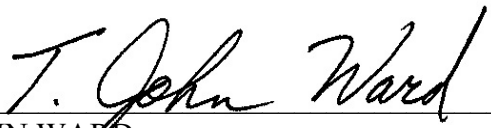
ORDER

The above-titled and numbered civil action was referred to United States Magistrate Judge Chad Everingham pursuant to 28 U.S.C. § 636. The report of the Magistrate Judge (Dkt. No. 48) has been presented for consideration. The report recommends that the court grant-in-part and deny-in-part Defendant's motion to dismiss Plaintiffs' first amended complaint. It is recommended that the court grant the motion with regard to Plaintiffs' claims of fraud by non-disclosure and reformation, but deny the motion with regard to the balance of Plaintiffs' claims. The report also recommends that the court grant Plaintiffs leave to amend their first amended complaint within fourteen (14) days from the date of any order adopting the report. Finally, the report recommends that the court deny Defendant's motion to dismiss Plaintiffs' original complaint as moot.

The court is of the opinion that the conclusions of the Magistrate Judge are correct. Therefore, the court adopts the report of the United States Magistrate Judge, in its entirety, as the conclusions of this court. Accordingly, it is ORDERED that Defendant's motion to dismiss Plaintiffs' first amended complaint (Dkt. No. 26) is GRANTED-in-PART and DENIED-in-PART. The motion is GRANTED as to Plaintiffs' claims of fraud by non-disclosure and reclamation, with leave to amend the complaint within fourteen (14) days from the date of this

order. The motion is, however, DENIED with regard to all of Plaintiffs' other claims. It is FURTHER ORDERED that Defendant's motion to dismiss directed to Plaintiffs' original complaint (Dkt. No. 10) is DENIED as moot.

SIGNED this 29th day of September, 2011.



T. JOHN WARD
UNITED STATES DISTRICT JUDGE